



KAUFMAN DOLOWICH VOLUCK
ATTORNEYS AT LAW

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June 18, 2015

MISC 15 - 1139

**Via Federal Express and Filed in the
District Court of Arizona via ECF**

MAUSKOPF, J.

Clerk's Office
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Attention: Miscellaneous Case Intake

Re: **Ranasinghe et al. v. Great West Casualty Company et al.**
Case No: CV-14-00564-PHX-ROS
**Great West's pretrial discovery dispute regarding the deposition of
Irene Ranasinghe**

U.S. DISTRICT COURT
EASTERN DISTRICT
OF NEW YORK

2015 JUN 18 PM 2:45

FILED
CLERK

To the Judge assigned to this matter:

Our firm represents Defendant Great West Casualty Company in the above-captioned matter. In accordance with Fed.R.Civ.P. 30(b)(6), Fed.R.Civ.P. 37, Fed.R.Civ.P. 45, and LRCiv. 37.3, this letter seeks to resolve a discovery dispute between the parties, stemming from Ms. Irene Ranasinghe's failure to comply with a Subpoena to Testify, attached hereto as Exhibit A. We request that the Court issue an enforcement order compelling Ms. Ranasinghe's deposition on or before June 26, 2015.

The Subpoena was served upon Ms. Ranasinghe at her last known address on May 29, 2015, and commanded her to appear for testimony and produce documents related to the captioned matter on June 12, 2015. *See* Exhibit B. On June 5, 2015, we telephoned Ms. Ranasinghe in an attempt to confirm that she would be able to attend the deposition on June 12, 2015, or facilitate a time that would work best for her. Ms. Ranasinghe advised that she was unsure of her availability, and requested that we provide a copy of the Subpoena *via* email. We forwarded the Subpoena *via* email to Ms. Ranasinghe on June 5, 2015. *See* Exhibit C. On June 8, 2015 and June 10, 2015, we followed up with emails to Ms. Ranasinghe inquiring about her availability. *See* Exhibit D.

On June 10, 2015, Ms. Ranasinghe advised that she would be unable to attend a deposition on June 12, 2015, due to her work schedule. She was unsure as to when she could accommodate a time to be deposed due to her uncertain work schedule. *See* Exhibit E. We

Re: Ranasinghe et al. v. Great West Casualty Company et al.

Case No: CV-14-00564-PHX-ROS

June 18, 2015

Page 2

responded, stating that we would be happy to arrange a date and time that worked best within her schedule. *See* Exhibit F. On June 15, 2015, we telephoned Ms. Ranasinghe to inquire as to whether she was aware of her work schedule, and was willing to schedule her deposition. As is commemorated in our email of June 16, 2015, Ms. Ranasinghe was unwilling to schedule her deposition, and was further unable to provide any clarity as to when she would know her work schedule. We offered to schedule the deposition early in the morning, late at night, or on a weekend to facilitate her attendance. Despite this, Ms. Ranasinghe further stated that she was unable to schedule her deposition at this time. *See* Exhibit G.

As we have made a good faith effort to resolve this discovery dispute pursuant to Fed.R.Civ.P. 37(a)(1) and LRCiv. 37.3(a), we submit this letter to the Court under LRCiv. 37.3(c) and request that the Court issue an enforcement order compelling Ms. Ranasinghe to appear for a deposition on or before June 26, 2015.

The foregoing has been electronically filed *via* ECF. We thank you for your attention in this matter.

Respectfully Yours,

KAUFMAN DOLOWICH & VOLUCK, LLC

A handwritten signature in black ink, consisting of a large, stylized 'P' followed by a horizontal line extending to the right.

Patrick M. Kennell

Encls.

cc: Via Mail and Email
Ms. Irene Ranasinghe
50 Lerer Lane
Staten Island, New York 10307
-and-
irene.ranasinghe@gmail.com

Via Mail and Email
Mr. Premalal Ranasinghe
50 Lerer Lane
Staten Island, New York 10307
-and-
ranasinghelal@yahoo.com

Exhibit A

AO 88A (Rev. 02/14) Subpoena to Testify at a Deposition in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Arizona

PREMALAL RANASINGHE, et al.

Plaintiff

v.

GREAT WEST CASUALTY COMPANY

Defendant

Civil Action No. CV-14-00564-PHX-ROS

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To:

Irene Ranasinghe

50 Lerer Lane, Staten Island, New York 10307

(Name of person to whom this subpoena is directed)

☒ **Testimony:** YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place: ~~Kaufman Dolowich & Voluck LLP,~~
60 Broad Street, 36th Floor, New York, NY

Date and Time:
06/12/2015 11:00 am

The deposition will be recorded by this method: Stenographic (court reporter)

☒ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:
See Exhibit A to this subpoena

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: _____

CLERK OF COURT

OR


*Signature of Clerk or Deputy Clerk**Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____
Great West Casualty Company, who issues or requests this subpoena, are:

Patrick Kennell, Kaufman Dolowich & Voluck, LLP, (212) 485-9600, pkennell@kdvlaw.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

AO 88A (Rev. 02/14) Subpoena to Testify at a Deposition in a Civil Action (Page 2)

Civil Action No. CV-14-00564-PHX-ROS

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named individual as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

1 KAUFMAN DOLOWICH & VOLUCK, LLP
2 Patrick M. Kennell (*pro hac vice*)
3 pkennell@kdvlaw.com
4 60 Broad Street – 36th Floor
5 New York, New York 10004
6 (212) 485-9600
7 *Attorneys for Defendant*

8
9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE DISTRICT OF ARIZONA**

11 Premalal Ranasinghe, et al.,

12 Plaintiffs,

13 v.

14 Great West Casualty Company,
15 Defendant.

No. CV-14-00564-PHX-ROS

**EXHIBIT A TO SUBPOENA
OF IRENE RANASINGHE**

16 **EXHIBIT "A" TO SUBPOENA**

17 You, or your representatives, must also bring with you to the deposition the
18 following documents, electronically store information, or objects, and must permit
19 inspection, copying, testing, or sampling of the material:
20

21 **DEFINITIONS**

22
23 1. "And" shall be understood to include "or," and "or" shall be understood to
24 include "and."
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1 2. “Communication” or “communications” means without limitation, the
2 transmission of a word, statement, fact, thing, idea, or document as defined herein,
3 instruction, demand or question.
4

5 3. “Correspondence” refers to all forms of writings, electronic or otherwise,
6 and include any reduction to tangible or intangible form, including computer or magnetic
7 memory or storage, of communication, information, or data, including any written,
8 recorded, or filmed graphic matter of any kind or nature, however produced or
9 reproduced, including originals, drafts, and non-identical copies, wherever located.
10 These terms also include, but are not to be limited to, letters, books, contracts,
11 agreements, e-mail, computer tapes, discs, printouts, keypunch cards, memoranda,
12 diaries, notes, reports, bulletins, printed forms, telegraphic communications, telexes,
13 telegrams, telecopies, facsimile reproductions, invoices, minutes, microfilm, microfiche,
14 films, videotape, computer discs, and telephone records.
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19 4. “Document” means any written, recorded, photographic, graphic, or other
20 tangible matter, however produced, reproduced or stored, including any electronically
21 stored information. It includes all matter that relates or refers, in all or in part, to the
22 subject referred to in the request, including, but not limited to e-mail messages,
23 information stored electronically in any medium whatsoever, letters, reports, agreements,
24 interoffice correspondence, telegrams, facsimile transmissions, memoranda, transcripts,
25 diaries, microfilm, taped minutes of records of meetings, reports and/or summaries of
26 investigations, expressions or statements of policy, opinion or reports of consultants,
27
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1 analyses, surveys, studies, forecasts, charts, tables, appraisals, graphs, questionnaires,
2 schedules, projections, computer records, data discs, lists of persons attending meetings,
3 drafts and revisions of drafts and any documents, invoices, receipts, and original
4 preliminary notes. If a document has been prepared in several copies, or additional
5 copies have been made, or copies are not identical (or by reason of subsequent
6 modification of a copy by the addition of notations or other modifications, are no longer
7 identical) each non-identical copy is a separate document.
8
9

10
11 **TOPICS OF TESTIMONY**

12 1. Your relationship to Premalal Ranasinghe.

13 2. The identity and details of all persons or entities with an ownership interest
14 in the real property located at 50 Lerer Lane, Staten Island, New York, 10307 (the
15 "Property").
16

17 3. Your knowledge of any assets in which Premalal Ranasinghe may have an
18 ownership interest.
19

20 4. Your knowledge of the location and identity of any assets or accounts
21 which Premalal Ranasinghe may use to satisfy a judgment, dated March 18, 2015, in this
22 action.
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DOCUMENT REQUESTS

1
2 1. Any documents, communications or correspondence concerning the action
3 entitled *HSBC Bank USA v. Ranasinghe*, Index No. 130754/2013, New York Supreme
4 Court, Richmond County.
5

6 2. Any documents, communications or correspondence relating to the
7 identities of all persons or entities with an ownership interest in the Property.
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9 3. Any documents, communications or correspondence relating to mortgages,
10 liens or other encumbrances on the Property.
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Exhibit B

UNITED STATES DISTRICT COURT DISTRICT OF ARIZONA

Index No. CV-14-00564-PHX-ROS

PREMALAL RAMASINGHE, ET AL.

, Plaintiff(s)

- against -

GREAT WEST CASUALTY COMPANY

, Defendant(s)

State of New York)

) ss.:

County of Nassau)

AFFIDAVIT OF SERVICE

Lucille Galtieri being duly sworn, deposes and says that she is over the age of 18 years; is not a party to this action and resides within the State of New York. That on 05/29/2015 at 4:01 PM at:

50 LERRER LANE

STATEN ISLAND NY 10307

Deponent served the:

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

upon IRENE RAMASINGHE,

by delivering a true copy to:

PREMALAL RAMASINGHE, HUSBAND

who stated that they were authorized to accept service on behalf of:

IRENE RAMASINGHE.

Within 20 days of such service, deponent enclosed a copy of same in a first class postpaid envelope properly addressed to recipient at:

IRENE RAMASINGHE

50 LERRER LANE

STATEN ISLAND NY 10307

and deposited said envelope in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State. The envelope bore the legend "PERSONAL & CONFIDENTIAL" and did not indicate by return address or otherwise that the communication was from an attorney or concerned an action against the recipient.

To the best of my knowledge, based on information and belief, the said recipient at the time of service was not engaged in the military service of the United States or New York. Recipient wore ordinary civilian clothing and no military uniform.

Deponent describes the individual served as follows:

AGE: 58 HEIGHT: 5'9 WEIGHT: 160 HAIR: BLACK RACE: LT BROWN SEX: MALE

\$52.00 the authorized witness fee was tendered to the recipient.

SWORN TO BEFORE ME

(date)

Lucille Galtieri
ServerLinks.com

License #1249825
Lic. # 1104670

OUR DOC# 33307

Kaufman Dolowich Voluck & Gonzo LLP
60 Broad Street

MARK O. EISENBERG
Notary Public, State of New York
No. 01E4858991
Qualified in Nassau County
Commission Expires Nov. 20, 2017

Exhibit C

Ryan Westerfield

From: Ryan Westerfield
Sent: Friday, June 05, 2015 3:36 PM
To: 'irene.ranasinghe@gmail.com'
Cc: Patrick Kennell; Marc Voses; Kendra Marrero
Subject: Deposition- June 12, 2015
Attachments: Subpoena (Irene Ranasinghe).pdf

Good afternoon Ms. Ranasinghe,

Thank you so much for taking the time to speak with me today. As we discussed, I have attached the documentation requesting your deposition on June 12, 2015 at 11:00 a.m. The deposition is scheduled to take place at 60 Broad Street, 36th Floor, New York, New York, 10004. The attached document describes the information and documentation that we hope you are able to provide.

Please let me know if you can attend on June 12th. If you need to change the time or date of the deposition, don't hesitate to let me know. I can be reached at (212) 485-9952.

Thank you again, and I look forward to hearing back from you.

Regards,
Ryan Westerfield

Exhibit D

Ryan Westerfield

From: Ryan Westerfield
Sent: Monday, June 08, 2015 12:05 PM
To: 'irene.ranasinghe@gmail.com'
Cc: 'Patrick Kennell'; 'Marc Voses'; 'Kendra Marrero'
Subject: RE: Deposition- June 12, 2015

Good morning Ms. Ranasinghe,

I wanted to quickly follow up on my email below and ask whether you will be able to meet with us on June 12th.

Thank you again for your help, and please contact me with any questions.

Ryan Westerfield

From: Ryan Westerfield
Sent: Friday, June 05, 2015 3:36 PM
To: 'irene.ranasinghe@gmail.com'
Cc: Patrick Kennell; Marc Voses; Kendra Marrero
Subject: Deposition- June 12, 2015

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Please let me know if you can attend on June 12th. If you need to change the time or date of the deposition, don't hesitate to let me know. I can be reached at (212) 485-9952.

Thank you again, and I look forward to hearing back from you.

Regards,
Ryan Westerfield

Ryan Westerfield

From: Ryan Westerfield
Sent: Wednesday, June 10, 2015 9:22 AM
To: 'irene.ranasinghe@gmail.com'
Cc: Patrick Kennell; Marc Voses; Kendra Marrero
Subject: RE: Deposition- June 12, 2015

Good morning Ms. Ranasinghe,

This will again follow up on my prior emails. Please confirm that you can attend the deposition, or contact me at your earliest convenience.

Regards,
Ryan Westerfield

From: Ryan Westerfield
Sent: Monday, June 08, 2015 12:05 PM
To: 'irene.ranasinghe@gmail.com'
Cc: 'Patrick Kennell'; 'Marc Voses'; 'Kendra Marrero'
Subject: RE: Deposition- June 12, 2015

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Please let me know if you can attend on June 12th. If you need to change the time or date of the deposition, don't hesitate to let me know. I can be reached at (212) 485-9952.

Thank you again, and I look forward to hearing back from you.

Regards,
Ryan Westerfield

Exhibit E

Ryan Westerfield

From: Irene Ranasinghe <irene.ranasinghe@gmail.com>
Sent: Wednesday, June 10, 2015 11:28 AM
To: Ryan Westerfield
Subject: Re: Deposition- June 12, 2015

As I mentioned to you the other day I won't be able to take off on the 12th or for that matter I won't be able to take off any Friday. As I am the only one here on Fridays. Let me wait till my colleague comes back from vacation and I will let you know a possible day.

Best regards,
Irene

Irene Ranasinghe

On Fri, Jun 5, 2015 at 3:36 PM, Ryan Westerfield <rwesterfield@kdvlaw.com> wrote:

Good afternoon Ms. Ranasinghe,

Thank you so much for taking the time to speak with me today. As we discussed, I have attached the documentation requesting your deposition on June 12, 2015 at 11:00 a.m. The deposition is scheduled to take place at 60 Broad Street, 36th Floor, New York, New York, 10004. The attached document describes the information and documentation that we hope you are able to provide.

Please let me know if you can attend on June 12th. If you need to change the time or date of the deposition, don't hesitate to let me know. I can be reached at (212) 485-9952.

Thank you again, and I look forward to hearing back from you.

Regards,

Ryan Westerfield

Exhibit F

Ryan Westerfield

From: Ryan Westerfield
Sent: Wednesday, June 10, 2015 11:32 AM
To: 'Irene Ranasinghe'
Subject: RE: Deposition- June 12, 2015

Thank you so much for getting back to me. We would be happy to facilitate a day that works best for you. Do you know when your colleague is scheduled to come back from vacation?

When you have a better idea as to your availability, please let me know and we can coordinate a date.

Regards,
Ryan Westerfield

From: Irene Ranasinghe [<mailto:irene.ranasinghe@gmail.com>]
Sent: Wednesday, June 10, 2015 11:28 AM
To: Ryan Westerfield
Subject: Re: Deposition- June 12, 2015

As I mentioned to you the other day I won't be able to take off on the 12th or for that matter I won't be able to take off any Friday. As I am the only one here on Fridays. Let me wait till my colleague comes back from vacation and I will let you know a possible day.

Best regards,
Irene

Irene Ranasinghe

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Thank you again, and I look forward to hearing back from you.

Regards,

Ryan Westerfield

Ryan Westerfield
Attorney at Law



60 Broad St, 36th Floor
New York, NY 10004

Direct: 212-485-9952
Cell: 917-208-0261
Main: 212-485-9700
Fax: 212-485-9700
Email: rwesterfield@kdvlaw.com

WWW.KDVLAW.COM



**LONG ISLAND | NEW YORK CITY | PENNSYLVANIA | CHICAGO
NEW JERSEY | SAN FRANCISCO | LOS ANGELES | FLORIDA**

PLEASE NOTE: This message, including any attachments, may include privileged, confidential and/or inside information. Any distribution or use of this communication by anyone other than the intended recipient(s) is strictly prohibited and may be unlawful. If you are not the intended recipient, please notify the sender by replying to this message and then delete it from your system.

Please consider the environment before printing.

Exhibit G

Ryan Westerfield

From: Ryan Westerfield
Sent: Tuesday, June 16, 2015 4:39 PM
To: 'Irene Ranasinghe'
Cc: Marc Voses; Patrick Kennell
Subject: RE: Deposition- June 12, 2015

Dear Ms. Ranasinghe,

This will follow up on our telephone call of June 15, 2015. Though we attempted to find an accommodating time to conduct your deposition, you advised that you were unable to schedule a time to be deposed. You further stated that you were unsure of your upcoming work schedule, and you did not offer a date after which you would have clarity with respect to your work schedule. We stated that we were able to conduct the deposition in the morning, at night, or on a weekend, but you advised that you were still unable to schedule the deposition.

We have no choice but to seek a federal court order setting a date for the deposition and compelling your compliance with the Subpoena. We will forward our correspondence to the court to your last known address at 50 Lerer Lane, Staten Island, New York, and to this email address. To the extent there is another address at which you can be reached, please advise.

Regards,
Ryan Westerfield

From: Ryan Westerfield
Sent: Wednesday, June 10, 2015 11:32 AM
To: 'Irene Ranasinghe'
Subject: RE: Deposition- June 12, 2015

Thank you so much for getting back to me. We would be happy to facilitate a day that works best for you. Do you know when your colleague is scheduled to come back from vacation?

When you have a better idea as to your availability, please let me know and we can coordinate a date.

Regards,
Ryan Westerfield

From: Irene Ranasinghe [<mailto:irene.ranasinghe@gmail.com>]
Sent: Wednesday, June 10, 2015 11:28 AM
To: Ryan Westerfield
Subject: Re: Deposition- June 12, 2015

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Best regards,
Irene

Irene Ranasinghe

On Fri, Jun 5, 2015 at 3:36 PM, Ryan Westerfield <rwesterfield@kdvlaw.com> wrote:

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Please let me know if you can attend on June 12th. If you need to change the time or date of the deposition, don't hesitate to let me know. I can be reached at (212) 485-9952.

Thank you again, and I look forward to hearing back from you.

Regards,

Ryan Westerfield

Ryan Westerfield
Attorney at Law



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New York, NY 10004

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Cell: 917-208-0261
Main: 212-485-9700
Fax: 212-485-9700
Email: rwesterfield@kdvlaw.com